REMARKS

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Claims 1 and 4-16 were pending in this application when examined.

In the Amendment After Final Rejection filed September 22, 2010, claim 1 had been amended to recite that the hardenable termite-controlling composition comprises "a termiticide" from claim 7.

Claim 1 has been further amended to recite that the termiticide "comprises at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid". Support for this amendment can be found in paragraph [0030], page 14, lines 12, 15, 26 and 27, and page 15, line 8, of the specification.

I. Claim Rejection Under 35 U.S.C. § 102

The Examiner rejects claims 1, 4-6, 8, 17 and 18 under 35 U.S.C. § 102(b) as being anticipated by Walker et al. (1997). As applied to the amended claims, Applicants respectfully traverse the rejection.

Claim 1 has been amended to recite the features of non-rejected claim 7, and to recite "the termiticide comprises at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid".

Walker et al. disclose compressed earth blocks stabilized by adding Portland cement to a mixture comprising clay soil and sand in various ratios (see page 546, "2.1 Constituent materials"). Table 1 of the reference describes soil grading of the clay and sand, and that the clay comprises 25% of the fine gravel fraction (2-6 mm) and the sand comprises 4% of the fine gravel fraction (2-6 mm).

However, the reference fails to disclose a **hardenable termite-controlling composition comprising "a termiticide"**, and that "**the termiticide comprises at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid**", as recited in claim 1.

Therefore, claim 1 is not anticipated by the reference.

Claims 4-6, 8, 17 and 18 depend directly or indirectly from claim 1, and thus also are not anticipated by the reference.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

II. Claim Rejection Under 35 U.S.C. § 103

The Examiner rejects claims 1 and 4-19 under 35 U.S.C. § 103(a) as being unpatentable over Walker et al. in view of Okada (JP 07-291699), Nishimura et al. (JP 04-51506), Allen et al. (1961), Allen et al. (1964), and Moriwaki et al. (JP 60-230451). As applied to the amended claims, Applicants respectfully traverse the rejection.

Walker et al.

As discussed above, Walker et al. disclose compressed earth blocks stabilized by adding Portland cement to a mixture comprising clay soil and sand in various ratios. Table 1 of the reference describes soil grading of the clay and sand, and that the clay comprises 25% of the fine gravel fraction (2-6 mm) and the sand comprises 4% of the fine gravel fraction (2-6 mm). However, the reference fails to disclose a **hardenable termite-controlling composition comprising "a termiticide"**, and that "**the termiticide comprises at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid**", as recited in claim 1.

In fact, the reference does not disclose or suggest any properties relating to a hardenable termite-controlling composition.

Okada

As discussed in the previous response filed June 25, 2010, Okada discloses a termite-controlling concrete comprising a concrete and at least one adsorbent selected from the group consisting of an activated carbon, a zeolite, an activated alumina, and a silica gel and to which a termite-controlling agent is adsorbed" (see claim 1).

Moreover, the reference teaches that, for preparing a concrete, water is added to a gravel (砂利, Japanese appellation "jari"), a sand and a cement, and then the components are mixed. Then, an adsorbent to which a termite-controlling agent is adsorbed and supported is added to the mixture, and the mixture is mixed uniformly before solidification. By such a process, the termite-controlling concrete of Okada is obtained (see paragraph [0025] of the reference).

In addition, as advantages, the reference teaches that the erosion of a house by termites is prevented by the operation of a controlling agent which concrete diffuses, and that an adsorbent

can maintain a termite controlling effect for a long period of time as a result of the gradual release operation of the adsorbent (see [Effects of the Invention]).

However, the reference fails to disclose or suggest **a termiticide comprising "at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid"**, as recited in amended claim 1.

Nishimura et al.

As discussed in the previous response, Applicants take the position that the reference teaches that the earth floor 6 (a concrete slab on a grade) comprises a time-hardening hardenable material, such as a cement or a mortar concrete, continuously laid between the strip footing 1 and the bond stone 5 over the under floor ground 3 (page 4, lines 2-5). Further, Applicants take the position that the reference discloses that first the termiticide is mixed in a powder paste composed of a cement and a gravel (砂利, Japanese appellation "jari") beforehand, and then the mixed powder material 10 is scattered on the under floor ground 3 so that the material can form a predetermined layer.

In addition, the reference teaches that the mixed powder material 10 is sprinkled with water 11 for hardening to form a lower layer 8. After the hardening of the lower layer 8 proceeds to a certain degree, a mixed powder material 12 which contains a humidity-controlling agent and a powder paste composed of a cement and a gravel is scattered on the lower layer 8, as shown in Fig. 3. Then, the mixed powder material 12 is sprinkled with water 13 for hardening to form an upper layer 9 (page 4, line 13 to page 5, line 4).

Moreover, the reference describes the advantages of the invention to be that the underfloor damp-proof structure is extremely effective for both humidity-controlling and termite-controlling of the underfloor, which can be obtained without generating gaps between the strip footing 1 or the bond stone 5 and the earth floor 6 (see [Effects of the Device]).

However, the reference fails to disclose or suggest **a termiticide comprising "at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid"**, as recited in amended claim 1.

Allen et al. (1961)

As discussed in the previous response, Allen et al. (1961) disclose that insecticidal treatment of internal voids and cracks in concrete foundations is a standard method of preventing or controlling termite infestations. If such concrete is fabricated with a toxic agent that would cause mortality of termites through contact action, the problem of preventing termite movement over the concrete or through crevices in foundations might be eliminated or reduced (see second paragraph).

Further, the reference discloses that late in the summer of 1960, dieldrin, an insecticide highly toxic to termites, was incorporated into cement mixtures, and that this insecticide was very stable even under highly alkaline conditions (see third paragraph).

The reference further discloses that concrete blocks, approximately 3x5x5 inches in size, containing this insecticide were poured for evaluating contact toxicity to exposed termites. A wettable powder containing 75% dieldrin was added to the water used in the preparation of the concrete. Concentration of dieldrin in the cement mixtures was approximately 0.1% and 1.6% in the cement (w/w). Concrete blocks containing the insecticide were similar to the check blocks except for a darker gray color. One week after fabrication the block surfaces containing 0.1% dieldrin caused 100% mortality to R. flavipes workers exposed for a period of only 1 minute (see fourth paragraph).

However, the reference fails to disclose or suggest **a termiticide comprising "at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid"**, as recited in amended claim 1.

Allen et al. (1964)

As discussed in the previous response, Allen et al. (1964) disclose a mixture of dieldrin-water and cement to produce a concrete with a surface that is toxic to termites. The reference discloses that the surface toxicity of the mixtures was reduced during certain storage conditions (26.7°C and 97%RH in the laboratory). The reference states that continuing studies to determine the durability of the toxic residue in concrete under laboratory and field conditions are in progress, and current results of these studies and experiments to evaluate the relative susceptibility of several species of termites to dieldrin-concrete mixtures are described (see page 26, col. 1, 1st paragraph).

Further, the reference discloses that the tests show the results obtained from 4 sets (I, II, III, IV) of dieldrin-concrete blocks prepared with dieldrin, 75% wettable powder in water, and ready-mix cement. Each set consisted of 3 blocks, each approximately 3x5x5 in., one with no dieldrin as a check, the second with 0.1% dieldrin (w/w), and the third, 1.6% (w/w) basis. The concentration of dieldrin in the 0.1% mixture was approximately twice the concentration recommended for treating trenches around building foundations. The high concentrations of dieldrin were selected for persistence in the alkaline condition, pH 12.5, of the freshly mixed concrete. The descriptions of additional sets of mixtures are given in the appropriate sections of this paper (see page 26, col. 1, 2nd paragraph).

However, the reference fails to disclose or suggest **a termiticide comprising "at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid"**, as recited in amended claim 1.

Moriwaki et al.

As discussed in the previous response, Moriwaki et al. disclose a process for restraining underfloor humidity comprising treating an underfloor ground of a building with a termiticide, followed by allowing a self-flowing water-hardening composition comprising a hydraulic cement, a water-reducing admixture, a water retention agent, an aggregate, and a water to self-spread (see Abstract).

However, the reference fails to disclose or suggest **a termiticide comprising "at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid"**, as recited in claim 1.

The Comparison of the Claimed Invention with the Cited References

The cited references fail to disclose or suggest "A hardenable **termite-controlling** composition which comprises a hydraulic material, **a termiticide** and a soil, and is in the form of a dust-granule mixture, wherein the soil comprises a gravel component and/or a crushed inorganic waste, and the gravel component and the crushed inorganic waste have a particle size of 2 to 5 m, and **wherein the termiticide comprises at least one member selected from the group consisting of a pyrethroid-series compound, a neonicotinoid-series compound, a phenylpirazole-series compound and a boric acid**", as recited in claim 1.

Accordingly, the references fail to disclose or suggest each feature of the claimed composition.

Therefore, claim 1 would not have been obvious over the references.

Claims 4-6 and 8-19 depend directly or indirectly from claim 1, and thus also would not have been obvious over the references.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

III. Conclusion

For these reasons, Applicants take the position that the presently claimed invention is clearly patentable over the applied references.

Therefore, in view of the foregoing amendments and remarks, it is submitted that the rejections set forth by the Examiner have been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

Shinji YOSHIDA et al.

/Andrew B. Freistein/

Digitally signed by /Andrew B.Freistein/
DN: cn=/Andrew B. Freistein/, o=WLP, ou=WLP, email=afreistein@wenderoth.com, c=US
Date: 2010.12.21 14:18:31 -05'00'

By Andrew B. Freistein
Registration No. 52,917
Attorney for Applicants

ABF/emj
Washington, D.C. 20005-1503
Telephone (202) 721-8200
Facsimile (202) 721-8250
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